

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COLTON JOINT UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015090427

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On September 4, 2015, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Colton Joint Unified School District.

On September 16, 2015, OAH consolidated, identifying Student's case with District's then pending case, OAH Case No. 2015080079. OAH issued scheduling order, setting the consolidated matters for hearing on October 29, 2015. At the prehearing conference of October 23, 2015, OAH granted District's unopposed request for continuance, setting the PHC for November 9, 2015, and the hearing for November 18 and 19, 2015.

On October 27, 2015, District filed a motion to continue the hearing because a crucial District witness was unexpectedly unavailable for the hearing dates. On November 3, 2015, Student filed a motion to amend. On the same date, District filed notice of non-opposition to Student's motion to amend, which withdrew the issue of District seeking to deny Student's request for an independent educational evaluation. Student's case is presently set for hearing on February 2 through 4, 2016, pursuant to the parties' December 16, 2015 continuance request.

On January 15, 2016, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). Student's motion contains an email from District's legal counsel, which states that District does not oppose Student's Motion to Amend.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The motion to amend is timely and is granted. While OAH is reluctant to grant a Motion to Amend when a case has been pending nearly five months, and after OAH has previously granted a Motion to Amend, Student presented good cause for a subsequent amendment to include the independent educational evaluation request. Therefore, the amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: January 21, 2016

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings